

SUBJECT: Increasing the PSF fund capacity available for charter district bonds

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

SENATE VOTE: On final passage, May 1 — 27-3-1 (Hall, Miles, Nichols, nay; West, present, not voting)

WITNESSES: *On House companion bill, HB 467:*

For — David Dunn, Texas Charter Schools Association; Karalei Nunn, Meridian World School; Thomas Sage, Texas Charter School Association; Brent Wilson, Life School; Thomas Ratliff; (*Registered, but did not testify*: Matthew Abbott, Wayside Schools; John Armbrust, Austin Achieve Public Schools; Yasmin Bhatia, Uplift Education; Courtney Boswell, Texas Aspires; Chuck Cook, ResponsiveEd; Michael Feinberg, KIPP Houston; Eric Glenn, Texas Charter School Association; Addie Gomez, Texans for Quality Public Charter Schools; Rebecca Good, Legacy Preparatory Charter Academy; Miranda Goodsheller, Texas Association of Business; Andrew Greenawalt, Austin Achieve Public Schools; Amanda List, Texas League of Community Charter Schools; Justin Yancy, Texas Business Leadership Council; Kathleen Zimmermann, Nyos Charter School; and nine individuals)

Against — Guy Sconzo, Fast Growth School Coalition; (*Registered, but did not testify*: David D. Anderson, Arlington ISD Board of Trustees; Amy Beneski, Texas Association of School Administrators; Curtis Culwell, Texas School Alliance; Tracy Ginsburg, Texas Association of School Business Officials; Dax Gonzalez, Texas Association of School Boards; Colby Nichols, Texas Rural Education Association; Brian Woods, Fast Growth Schools, TASA; Jamie Haynes)

On — (*Registered, but did not testify*: Kara Belew, Von Byer, Leonardo

Lopez, and Holland Timmins, Texas Education Agency)

**BACKGROUND:** In 2013, the 83rd Legislature enacted HB 885 by Murphy, which allowed the use of the Permanent School Fund to back bonds issued by certain charter schools. Sec. 45.0532 establishes limitations on the Permanent School Fund's guarantee of charter district bonds.

**DIGEST:** SB 1480 would adjust the limitations on the use of the Permanent School Fund to guarantee charter district bonds. The bill would apply the available capacity for charter districts to the total capacity of the bond guarantee program based on the number of students in charter schools as a percentage of all public school students, as determined by the Commissioner of Education.

**Charter district bonds capacity.** The charter district bonds capacity would apply beginning with fiscal 2022. The State Board of Education (SBOE) would establish the capacity for the preceding state fiscal years by increasing the total limitation on the amount of charter district bonds that could be guaranteed under the law in effect on January 1, 2017, as provided by the bill. For any year, the SBOE could increase the charter capacity by less than those amounts if:

- the board determined that increasing the charter capacity by the prescribed amount likely would result in a negative impact on the bond ratings provided by one or more nationally recognized investment rating firms for school district or charter district bonds for which a guarantee was requested; or
- one or more charter districts defaulted on payment of maturing or matured principal or interest on a guaranteed bond, resulting in a negative impact on the bond ratings.

If the SBOE modified the schedule for any year, it also could make appropriate adjustments to the schedule for subsequent years, provided that the charter capacity for any year could not exceed the limit provided for that year by the schedule contained in the bill. These provisions would expire September 1, 2022.

**Confidential information.** Information obtained from a nationally recognized investment rating firm that concerned a hypothetical or actual scenario relating to the credit rating of the Permanent School Fund and communications from such a firm and the SBOE, the Commissioner of Education, or the Texas Education Agency would be confidential and not subject to disclosure under state public information laws.

**Commissioner investigation.** The commissioner's investigation of an application submitted by a charter district could include evaluation of whether the charter district bond security documents provided a security interest in real property pledged as collateral for the bond and the repayment obligation under the proposed guarantee. The commissioner could decline to approve the application if the commissioner determined that sufficient security was not provided.

The commissioner also could consider any additional reasonable factor, including the charter district's academic and financial performance and whether the charter district had an average daily attendance of more than 75 percent of its student capacity for each of the preceding three school years, or for each school year of operation if the charter district had not been in operation for three school years. The section allowing consideration of additional factors would expire September 1, 2019.

**Reserve fund.** The SBOE would manage the Charter District Bond Guarantee Reserve Fund, including investments, in the same manner that it manages the Permanent School Fund. The board would be required to adjust the investment portfolio of fund money periodically to ensure that the reserve fund balance was sufficient to meet the cash flow requirements of the fund.

The bill would raise from 10 percent to 20 percent the percentage of the savings to a charter district as a result of the lower interest rate on a bond due to the guarantee by the Permanent School Fund that the charter district would be required to remit to the commissioner for deposit in the reserve fund. The bill would remove the requirement that the amount due

be amortized and paid over the duration of the bond, with each payment due on the anniversary of the date the bond was issued. Instead the amount due would be paid on receipt by the charter district of the bond proceeds.

A charter district would be exempted from the remittance requirement if at the time it received the bond proceeds the balance of the reserve fund was at least equal to 3 percent of the total amount of outstanding guaranteed bonds issued by charter districts. The bill would remove the authorization for the commissioner to direct the comptroller to annually withhold the amount due to the fund for that year on the basis of a charter school's remittances from the state funds otherwise payable to the charter district.

The bill would take effect September 1, 2017, and would apply only to a charter district bond that was approved by the commissioner on or after that date.

**SUPPORTERS  
SAY:**

SB 1480 would increase the bond capacity of the Permanent School Fund available to charter schools for facilities funding from 1 percent to 4 percent of the Permanent School Fund bond guarantee. This would reduce the charter school's cost of borrowing to improve and add facilities to meet growing enrollment demand. The increase would occur incrementally over the next five years and would come without any new state appropriations. The bill also would add protections to the Permanent School Fund to increase oversight. It would leave in place stringent access criteria that require a charter school to achieve an investment-grade rating to qualify for the bonds.

**OPPONENTS  
SAY:**

Increasing the available bond capacity of the Permanent School Fund guarantee for charter schools could put the fund and future education of Texas public school students at risk. If one or more charter schools defaulted on bonds backed by the Permanent School Fund, it could create a run on the fund and threaten its stability.

NOTES:

According to the Legislative Budget Board's fiscal note, the bill would result in a revenue gain of \$13.1 million to the Charter District Bond Guarantee Reserve Fund in fiscal 2018-19.

A companion bill, HB 467 by Murphy, was reported favorably by the House Public Education Committee on April 11.